

~~ML~~ ML Piscataway 7 - Nov - 1984

Plaintiff's Notice of Motion for a
Temporary Restraining order and
Interlocutory Injunction, copy
of Memo in Support, and cover
letter.

pgs = 29

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School of Law-Newark • Constitutional Litigation Clinic
S.J. Newhouse Center For Law and Justice
15 Washington Street. Newark - New Jersey 07102-3192 • 201/648-6687

November 7, 1984

The Honorable Eugene D. Serpentelli
Judge, Superior Court
Ocean County Court House, CN 2191
Toms River, New Jersey 08753

P. Serk

Re: Urban League v. Carteret, Civ C 4122-73

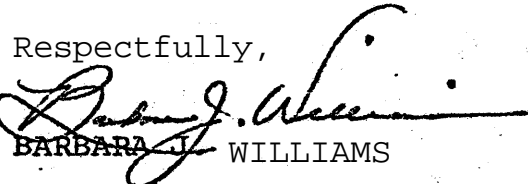
Dear Judge Serpentelli:

I am enclosing plaintiffs¹ Notice of Motion for a Temporary Restraining Order and Interlocutory Injunction, supporting Affidavit of the undersigned and a proposed Order in the above-referenced matter.

I am also enclosing a copy of the Memorandum in Support of Motion for Temporary Restraining Order and Interlocutory Injunction submitted by plaintiffs last month with respect to the Reidhal, Inc. property which is equally applicable to the present Motion.

I would appreciate the Court setting a short return date in view of the fact that the Lackland Brothers, Inc. site (#76) is the subject of an application to be heard by the Piscataway Planning Board on Wednesday, November 14, 1984 at 8:00 PM.

I thank the Court for its assistance in this matter.

Respectfully,

BARBARA J. WILLIAMS

cc/All Counsel on annexed service list

NOTE to Counsel: Judge Serpentelli has set
November 14, 1984 at 9 AM
as the return day of plaintiffs*
Motion.

ends

SERVICE LIST

Urban League V. Carteret, Civ C 4122-73 (Superior Court, Chancery
Biv, Middlesex County)

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ATTORNEYS FOR PLAINTIFFS

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION
MIDDLESEX COUNTY

OTBAN iLEAFIOE @? GREATER
NEW BRUNSWICK, et al.,

Plaintiffs,

Civil Action C 4122-73

Vs.

THE MAYOR AND COUNCIL OF
THE BOROUGH OF CARTERET,
et al., ;

foefendants.

MOTION FOR TEMPORARY
RESTRAINING ORDER AND
INTERLOCUTORY INJUNCTION

PLEASE TAKE NOTICE that on Wednesday, November 14, 1984
at 9:00 A.M., or as soon thereafter as counsel may be heard,
plaintiffs in this action will move for an Order restraining the
Township of Piscataway Council, Planning Board, and Zoning Board
of Adjustment from approving any application or taking any other
action, with respect to any vacant site which is identified on
the Vacant Land Inventory (attached as Exhibit A) and which
has been identified as being "satisfactory"¹¹ for Mt. Laurel
development in the preliminary report of the court-appointed expert,
Carla Lerman, P.P., which would permit development of any site
for any use that does not require a minimum 20% set aside of low
and moderate income housing consistent with Mt. Laurel II,

92 N.J. 158 (1983).

B I ^SE TAKE FURTHER NOTICE that plaintiffs will also move
•for an Order directing the Township of Piscataway Council,
Planning Board and Zoning Board of Adjustment, upon receipt
of any application with respect to any site identified in para-
graph 1 above, or upon learning of plans to submit such an
application, to notify the applicant or property owner of the
existence Of this Order, and of the landowner's right to move upon
short notice to all parties that for good cause shown,
res*sra\$nts be vacated as to their property[ies].

Dated: November 7, 1984


BARBARA J. LIAMS
ATTORNEY ^OX PLAINTIFFS

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SUPERIOR COURT OF NEW JERSEY
 CHANCERY DIVISION
 MIDDLESEX COUNTY

URBAN LEAGUE OF GREATER]
 NEW BRUNSWICK, et al.,]

Plaintiffs,]

vs.]

THE MAYOR AND COUNCIL OF]
 THE BOROUGH OF CARTERET,]
 et al.,]

Defendants.]

Civil Action C 4122-73

AFFIDAVIT IN SUPPORT OF MOTION
 FOR TEMPORARY RESTRAINING ORDER
 AND INTERLOCUTORY INJUNCTION

STATE OF NEW JERSEY)
 : ss.:
 COUNTY OF ESSEX)

BARBARA J. WILLIAMS, of full age, being duly sworn
 according to law, on oath deposes and says:

1. I am the attorney for plaintiffs in the above-
 referenced matter.

2. Pending consideration of the vacant land question in
 Piscataway, the Township, as the Court is aware, has continued
 to consider and approve applications on properties that appear to
 be suitable for Mt. Laurel development.

3. On or about October 24, 1984, developer Lackland Brothers,
 Inc. petitioned the Site Plan/Subdivision Committee of the

Piscataway Planning Board for preliminary approval of a subdivision application of seventeen (17) lots located on Hillside Avenue in Piscataway Township. The lots at issue, Site #76, are identified on the Township Tax map as Block 561, Lots 11-15 and 18-21, and Block 564, Lots 29-38, currently zoned as R-10. (The Piscataway Planning Board Site Plan/Subdivision Committee Meeting Agenda of October 24, 1984 is annexed hereto as Exhibit C.)

4. As indicated on the agenda of October 24, 1984 (Item 11), the goal of Lackland Brothers is to construct single family dwellings on the property at issue.

5. I have been informed that the application for preliminary approval was accepted by the Site Plan/Subdivision Committee and scheduled to be heard on November 14, 1984 at 8:00 PM at the regularly scheduled meeting of the Piscataway Planning Board, and may be acted upon at that time.

6. According to the Court-appointed expert, Carla Lerman, P.P., this site is "satisfactory" for Mt. Laurel development, and represents a good "infill" site. I have been advised by plaintiffs' expert, Alan Mallach, that this site can be developed with no negative impact on the existing character of the surrounding area. A conventional single-family subdivision of this site, such as the one proposed by developer Lackland Brothers, Inc., would eliminate a suitable site from consideration toward meeting Piscataway's fair share obligation. Site #76 is representative of a large number of "infill" sites, especially in the western part

of Eiseataway. Despite its small acreage (approximately 3 acres), sites of this general size and character are uniquely suitable for medium to trihouse clusters. Additional benefits in constructing townhouses are efficiency and economic incentives.

7. If the application for Site #76 is approved, it will create for the applicant substantial vested rights in the terms and conditions of the approval and may preclude rezoning of the tract for residential use as part of a remedy in this case.

8. On or about October 24, 1984, developer New Castle Builders, Inc. appeared before the Site Plan/Subdivision Committee of the Piscataway Planning Board, seeking a classification as a minor subdivision to subdivide property located on Morris Avenue into two (2) lots. The property, Site #44, is designated on the Township Tax map as Block 745, Lots, 3, 4C, 4E and 4*. These lots are currently zoned as R-15 and R-15A, and amount to a 20.97*acre parcel of land. (Exhibit C, supra).

9. I have been advised that the developer plans to prepare preliminary and final site plan applications providing for development of luxury condominiums, without any set aside for Mt. Laurel housing.

10. Site #44 is located adjacent to two cemeteries and directly across from an area zoned for planned residential development, with a set-aside density bonus for Mt. Laurel units.

11. If the application for Site #44 is approved, it will create for the applicant substantial vested rights in the terms

PISCATAWAY PLANNING BOARD
SITE PLAN/SUBDIVISION COMMITTEE MEETING
WEDNESDAY, OCTOBER 24, 1984 - 2:30 P.M.

1. CALL TO ORDER.
2. OPEN PtJBUC MEETINGS NOTICE.
3. EOLL CALL.
4. 84-PB-129 RANDOLPH JAHR CONSTRUCTION (CLASSIFICATION)
5. S4-PB-430V 49 Carlton Club Drive (VARIANCE)
6. V 84-PB-131V Piscataway, New Jersey 08854 (VARIANCE)

BU > CK 804, LOT 18, ZONE 31-10
Subdivide into two lots on the corner of Fisher Avenue and Deerfield Avenue to construct houses for sale*

VARIANCES: Both Jots have insufficient area; and insufficient width; required is 10,000 square feet and 100 feet; proposed is 7500 square feet and 75 feet.

U Buled complete September 14, 1984.

Action to be taken prior to January 12, 1985.

Requires Middlesex County Planning Board review.

Requires owners authorization.

Requires affidavUs of publication and service.

Attorney: Peter Lederman

Abdication was scheduled for a hearing on October 10, 1984. Applicant asked that this be carried to the November 14, 1984 meeting as the contract was not signed between the parties.

7. 84-PB-134 JOHN F. KASAR & NANCY F. KASAR (CLASSIFICATION)

36 Parkside Avenue

Piscataway, New Jersey 08854

BLOCK 151, LOTS 1-7, ZONE R-7

Subdivide into two lots for future development on Parkside Avenue.

Ruled complete October 17, 1984.

Action to be taken prior to December 1, 1984.

{Requires up to date proof of tax payment.

*This is a duplicate of a approval granted on Application No. 83-PB-17 on March 28, 1983. Applicant ttd not record the (feed in time.

Attorney: John Ebre

PISCATAWAY PLANNING BOARD
SITE PLAN/SUBDIVISION COMMITTEE MEETING
wemm&m. OCTOBER M, 1984

8. 84-PB-135 OTIN KASAR AND NANCY KASAR (CLASSIFICATION)
36 Parkside Avenue
Piscataway, New Jersey 0884

R-7.5

Subdivide into two lots to construct houses for on
Parkside Avenue.

Ruled complete October 17, 1984.

Action to be taken prior to December 1, 1984.

Requires up to date proof of tax payment.

*This is a duplicate of Application No. 83-PB-16

Which was approved March 28, 1983. Applicant did not
A feeord tie deed in time.

Attorney: John Lore

9. 84-PB-139 FRANK AND TERESA LEE (CLASSIFICATION)

18 Third Avenue
Piscataway, New Jersey 08854

BLOCK 452, LOTS 91 TO 102, ZONE R-10

Subdivide into two lots to sell one lot on
Stratton Street South.

Ruled complete October 15, 1984.
Action to be taken prior to November 29, 1984.

Requires proof of tax payment.
Requires Middlesex County Planning Board approval.

10. 84HPB-140 KENNETH MERIN ASSOCIATES (FINAL SITE PLAN)

95 Madison Avenue
Morristown, N.J. 07960
BLOCK 460, LOT 8-1, ZONE M-5.

Construction of 20,874 square foot office building
on Old New Brunswick Road.

Preliminary approval was granted September 12, 1984
subject to certain conditions (See attached resolution).

Ruled complete October 15, 1984.

Action to be taken prior to November 29, 1984.

Requires Middlesex County Planning Board approval.
Requires up to date proof of tax payment.

JISCATAWAY PLANNING BOARD
SITE PLAN/SUBDIVISION COMMITTEE MEETING
WEDNESDAY, OCTOBER 24, 1984

11. 84-PB-141 LACKLAND BROS., INC. (PRELIMINARY SUBDIVISION)
400 North Avenue
Dunellen, New Jersey 08812
BLOCK 561, LOTS 11 -15 AND 18-21,
BLOCK 564, LOTS 29 TO 38, ZONE R-40.
Subdivide into seventeen lots on Hillside Avenue
to construct single family dwellings.
Determination of completeness pending receipt of checklist.
Requires up to date proof of tax payment.
Requires affidavits of publication and of service.
Requires Middlesex County Planning Board approval.
Requires proof of ownership or contract purchaser.
12. 84-PB-142 LACKLAND BROS., INC. (CLASSIFICATION)
400 North Avenue
Dunellen, New Jersey 08812
BLOCK 359, LOT 1A, ZONE R-10
Classification to subdivide into four lots on
Myrtle Avenue.
Requires proof of tax payment.
Requires proof of ownership.
13. 84-PB-143 NEW CASTLE BUILDERS, INC. (RE-CLASSIFICATION)
4 Redbud Road
Piscataway, New Jersey 08854
BLOCK 745, LOTS 3, 4C, 4E, 4, ZONE R-15, R-15A
Subdivide into two lots on Morris Avenue to
Construct condominiums for sale.

14. ADJOURNMENT.

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ATTORNEYS FOR PLAINTIFFS

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION-MIDDLESEX/
OCEAN COUNTIES

URBAN LEAGUE OF GREATER
NEW BRUNSWICK, et al. ,

Docket No. C 4122-73

Plaintiffs,

vs.

THE MAYOR AND COUNCIL OF
THE BOROUGH OF CARTERET,
et al..

Defendants,

MEMORANDUM IN SUPPORT OF MOTION FOR
TEMPORARY RESTRAINING ORDER
AND INTERLOCUTORY INJUNCTION

In this motion, the Urban League plaintiffs seek to preserve their opportunity for adequate and appropriate relief against the defendant Township of Piscataway, by restraining the township's Planning Board from taking action that might irrevocably divert vacant and developable land in the township to non-Mount Laurel purposes. Such action is threatened as early as September 12, 1984, when the Planning Board is scheduled to hear Reidhal, Inc.'s applications for preliminary and final subdivision approval.

implication of the methodology adopted by this Court in AMG Realty Company, et. al, v. Township of Warren, Docket Nos. L-23277-80 PW and L-67820-80 PW (July 16, 1984) and in its Letter Opinion in this case dated July 27, 1984 yields a fair share obligation for Piscataway Township for the decade 1980 to 1990 that is in excess of 3,800 units of low and moderate income housing. Affidavit of Bruce Gelber, § 3. It is evident, as the Township has repeatedly argued, that there is insufficient vacant and developable land in Piscataway to completely satisfy an obligation of this magnitude. Lerman Report, p.2; Affidavit of Alan Mallach, f

Notwithstanding these facts, the township has undergone substantial growth in the recent past, and continues to experience substantial growth at this time. None of this growth has provided low and moderate income housing opportunities; indeed, by concentrating on commercial and office structures, it has served to exacerbate the need for affordable housing in the township. See Affidavit of Alan

• MaJLlach, if 5, The township's growth policy/ which has rrequired the active participation of the governing body and fttie planning board, vividly demonstrates fiscataway^fs insensitivity to its Mount Laurel obligation.

The Planning Board of the Township of Piscataway now has before it applications for preliminary and final subdivision approval that would permit construction of single family residences on one-quarter acre lots with no provision for the set aside of low or moderate income housing. Affidavit of Bruce Gelber, ff 6-8. The Planning Board has scheduled a public hearing on these applications for September 12, 1984, and could act upon the applications at that time.

The Urban League plaintiffs submit that approval of the pending applications will cause it irreparable harm. They therefore ask the Court to restrain all action with respect to these applications, pending completion of the Urban League trial, that would make this parcel unavailable for rezoning as part of a remedy in this case.

The familiar standard which plaintiffs must meet in order to obtain temporary relief was recently restated by the Supreme Court in Crowe v. DeGioia, 90 N.J. 126, 447 A.2d 173 (1982). Plaintiffs must show: (1) a valid legal theory and a "reasonable probability of ultimate success on the merits," id. at 133; (2) irreparable harm, not adequately redressable by money damages; and (3) a relatively greater harm to the plaintiff if relief is denied than to the defendant if relief is granted.

Plaintiffs amply meet this test.

Probability of success. In light of the Supreme Court's decision in Mount Laurel II, 92 N.J. 158 (1983), and this Court's rulings in AMG Realty Company, et. al. v. Township of Warren and this case, it goes without saying that plaintiffs' Mount Laurel theory is legally valid. It is also virtually certain that plaintiffs will prevail on the merits, and that Piscataway's zoning ordinance will be found to be in non-compliance with Mount Laurel II.[^] At trial, the township conceded that its zoning ordinance does not provide for a mandatory set aside of lower income housing. In addition, the township acknowledged that, even if its voluntary density bonus provision were fully utilized, it would result in the development of only 462 units of Mount Laurel housing. Because the fair share number for Piscataway resulting from the AMG methodology is in excess of 3800 units, even if that number were reduced to account for "credits" sought by the township, it would still greatly exceed the number of lower income units that may be developed under Piscataway's existing ordinance*.

Irreparable harm. Given the probable size of Piscataway's fair share number and the limited amount of vacant and developable land in the township, it is obvious that any action that removes otherwise suitable land from the remedial reach of the Court and its master in the compliance phase of this proceeding will undermine the Urban League plaintiffs' ability to achieve complete relief. In addition, alternative money damages are wholly inappropriate

in *SL* case of this nature.

Approval of the pending applications will for all practical purposes make these parcels unavailable for development of Mount Laurel housing. Under N.J.S.A. 40:55D-49(a), a developer's right to an approved "use" becomes vested upon preliminary approval, thus precluding a rezoning from commercial to residential or from single-family to multi-family uses, it also would presumably preclude any revision of the approval to include low and moderate income housing as a component of the proposed development. Although the statute refers to "general terms and conditions," this language has been interpreted to mean any basic or fundamental aspect of the project for which preliminary approval is granted. See Hilton Acres v. Klein, 64 N.J. Super. 281, 165 A.2d 819 (App. Div., 1960), aff'd, 35 N.J. 570, 174 A.2d 465 (1961). Although there is no case law directly in point, whether a proposed development is a Mount Laurel or non-Mount Laurel one would seem to fit within the Hilton Acres concept of a "basic" or "fundamental" aspect of the developer's thinking, and therefore would come within the reach of N.J.S.A. 40:55D-49ja).

Balancing of harms. The defendants, as public bodies, would suffer little, if any, harm should temporary relief be granted, since their role is that of a regulator rather than a principal. Indeed, the absence of prejudice to the township is especially evident here, since the temporary

^restraint sought by plaintiffs allows the Planning Board to •
continue to process and approve the applications,"subject
only to the plaintiffs¹ right to request rezoning of the
tract as part of the remedy in this case.

Assuming that the developer-applicant is entitled to
have its interests considered in the balance, the balance
still remains overwhelmingly in the plaintiffs* favor. As a
matter of law, the applicant is not entitled to approval
simply because its applications are complete and pending;
the applications could be disapproved by the planning board
on grounds unrelated to the present action. More
importantly, however, except for the issues of site
suitability and appropriate densities, trial in this action
has been completed and the temporary restraints are likely
to last at most for a couple of months until a decision is
rendered. Plaintiffs thus submit that they fall amply
within the requirements of Crowe, having shown a probability
of success on the merits, irreparable harm, and a balancing
of interest that is overwhelming in their direction.
Accordingly, plaintiffs respectfully move for entry of a
temporary restraining order regarding the processing and
possible approval of the Reidhal, Inc. applications.

Respectfully submitted;



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ATTORNEYS FOR PLAINTIFFS

SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION
MIDDLESEX COUNTY

URBAN LEAGUE OF GREATER
NEW BRUNSWICK, et al.,

Plaintiff^,

Civil Action C 4122-73

ITS.

THE MAYOR AND COUNCIL OF
THE BOROUGH OF CARTERET,
et al.,

* Defendants.

ORDER

Urban League plaintiffs having moved for a temporary restraining order and interlocutory injunction, the Court having reviewed all papers submitted, having heard all interested parties in open court on the return date, and for good cause shown:

IT IS HEREBY ORDERED this _____ day of November, 1984, that plaintiffs' motion (for a temporary restraining order is granted as follows:

- 1) With respect to any vacant site which is identified on the Vacant Land Inventory (attached hereto and incorporated as Exhibit A) and which has been identified as being "satisfactory" for Mt. Laurel development in the preliminary report of the court-

appointed expert, Carla Lerman, P.P. (attached hereto and incorporated as Exhibit B), the Township of Piscataway Council, Planning Board and Zoning Board of Adjustment, "are enjoined from approving any application or taking any other action which would permit development of any site for any use that does not require a minimum 20% set aside of low and moderate income housing consistent with Mt. Laurel II, 92 N.J. 158 (1983).

2) The Township of Piscataway Council, Planning Board, and Zoning Board of Adjustment, are required, upon receipt of any application with respect to any site identified in paragraph 1 above, or upon learning of plans to submit such an application, to notify the applicant or property owner of the existence of this Order, and of the landowner's right to move upon short notice to all parties, that for good cause shown, restraints be vacated - as to their property[ies].

EUGENE D. SERPENTELLI, J.S.C.

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220	134		24.90	SC	
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229A	1A, 1B		40.00		
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319	1A		55762	R-2G	
309*390,					
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503	X		66.25	R-20	
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457B	1, 2, 3A		17.21	M-5	
457A	V 7A		7.83	H-5	
457B	i 14A		7.7	W-5	
457B	i 7, 8, 9		25.00	M-5	
461	3A		14.54	M-5	
55KSE	2B-		5.00	LI-5	
457G	BC		28.79	LI-5	
462	4A		10.74	LI-5	
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495	1, 4C, 10, 11, 11A, 11B		40.98	LI-5	
497A	6B, 9B, 10A		31,00	LI-5	
499	2A		6.35	R-15	
499	4		1.09	R-15	
497	V 3 :V*		50.58	LI-5	
497	S 4		10.90	R-20	
496	1A		43.62	LI-5	
496	2, 11		63.85	R-20	
496	12		14.33	R-20	
495	46		74.65	R-20	
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73a	8 (PART)		7.80	GB	
734	44L		29.18	SC	
734	4S, 46, 49, 54A, 5S, 59C				
734A	44, 44G, 44F, OTHERS		55.96	LI-1	
735E	27A.28A		32.40	R-20	
A47B	21		14.70	R-20	
745	3, 4, 4C, 4E		20.00	R-15A	
744	2A		40.94	R-20	
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15 ACRES IN FLOODPLAIN
ADJACENT TO STEEL PLANT

ADJ. TO HEAVY INDUSTRY
SEVERE ENVIRON. CONSTRAINTS

TRAFFIC, RAILROAD

PRD

PROPOSED PARK 8 ACRES
ADJ. TO CHEMICAL PLANT

ADJ. TO CHEMICAL PLANT

ADJ. TO INTERSTATE
FLOOD PLAIN

ADJ. TO RAILROAD, ISMUSTKY.

ADJ. TO IND., FLOODPLAIN

ADJ. TO INDUSTRY

ADJ. TO INDUSTRY

ADJ. TO INDUSTRY

ADJ. TO INDUSTRY

ADJ. TO INDUSTRY, FLOODPLAIN

ADJ. TO INOU5T3Y, INTERSTATE

WOT CONTIGUOUS
INDUSTRIAL PARK, FLOODPLAIN
PARTIAL FLOOD PLAIN
FLOODPLAIN

FOUERLINS EASBENT <2.75APPROX>
<3.70APPR OX>
<1.70APPR OX>

PIPELINE EASEMENT, Kfct CONTIGUOUS

PRD ..* "1-1**

POWER LINES

"INDUSTRIAL PARK"
HISTORICAL FARM

PRD

PRD

Carla L. German
413 W. Englewood Avenue
Teaneck, New Jersey 07666

July 12, 1984

Honorable Eugene D. Serpentelli
Superior Court
Ocean County Court House
CS 2181
Toms River, N.J. 08753

Dear Judge Serpentelli:

I have reviewed all of the sites that were listed in the Vacant Land Inventory, April 1984 in the Township of Piscataway. Based on Alan Mallach's classification, I have personally inspected all of the sites in the Category XI and III, and many of those in Category I. Some of the sites in Category I, which I, the township planner in Piscataway and the plaintiff's expert witness, agreed were not suitable for residential development, were not inspected by me personally.

In Category I, there was one site which Alan Mallach indicated was not suitable for development, a large part of which I believe would be very suitable for residential development. This site, #55, owned by Rutgers University, is zoned for educational research use at this time; sixteen acres of this 120 acre area has been zoned for Hotel/Conference Center. If that portion remains as it is now designated, and some additional adjacent land is also set aside in that zone, there still might be at least 80 to 90 acres that would be very appropriate for higher density residential development. Other than this site

I would agree that all of the sites in Category I would be better developed in a use other than residential. In Category IX twelve sites were listed as questionable for residential development. Most of these sites are located

... or have been dedicated
... development, or are
... industry or other uses that are
... residential development. Two of the sites
... be partially useable for residential de-
... Site 19 and Site 13. Both sites are adjacent to
... residential areas but border on their western edge
... an area of heavy industry. In both cases a buffer strip
... edge could be reserved, while the eastern portion
... of the sites might be appropriate for development. Both sites
... need-examination in the field as to the proximity of the in-
... dustrial buildings and their possible impact regarding-
... noise, etc. The specific reason for excluding each of the sites
... in Category XI from development is listed in the attached

Category VIII included all of those sites that Allan Mallach
thought were suitable for residential development. I have
reviewed and personally inspected all of those sites, and for
the most part agree with their suitability for residential develop-
ment. There are, however, nine sites that I would disagree are
realistic or desirable for development of high density residential
use. These sites I would recommend not be designated for this
use; in addition there are five sites that are only partially
useable. There are several of the suitable sites that are of
such small size that I would not think them suitable or realistic
for development, under the "20 percent set aside" policy.
Altogether there are 37 sites recommended by the plaintiff
expert that I would find entirely or partially suitable for higher
density residential use, totaling 1100 acres, approximately-

regarding an opinion for suitability for residential development, I would like to give the following opinion:

A. Gerickont property (Site #43 and 45) on the north and south sides of Morris Avenue is very well suited for residential development. It is almost identical in character to the site immediately to the west which will be developed at 10 units per acre, and it is in a location where development at a similar density would not be detrimental to any of the surrounding properties. Morris Avenue is a collector street and will connect with the proposed arterial which will connect the existing Hoes Lane with Route 18. Traffic from the adjacent high density area (Hovnanian) will be able to have direct access to this new arterial, which should minimize the impact from that development, which has already been approved. The two cemeteries which comprise most of the northern side of Morris Avenue between Hoes Lane and the Gerickont site will not generate significant traffic. In the Piscataway Master Plan, a collector street was proposed (1978) that would separate the southeast edge of the Gerickont site from the adjacent single family uses. This collector street would connect Morris Avenue to the new arterial extension of Hoes Lane, thereby relieving Morris Avenue of the sole burden of the additional traffic. The development of this street should be an essential component of the development of the Gerickont site.

B. The Lange property (Site #6) is located immediately north of the Port Reading Railroad tracks with frontage on Old New Brunswick Road. This property, designated as Block 319 Lot 1 and Block 317 Lot 11B, is part of a much larger vacant area.

higher density residential development. Old New Brunswick Road is a collector street which leads directly to an I-287 interchange about 1/2 mile away, as well as connecting to the neighborhood shopping area on Stelton Street to the north of the site. There is multi-family housing across the street, on the west side of Old New Brunswick Road.

* 287 Associates (Site #30) is located immediately south of 287 Corporate Plaza, an office park which has access from South Randolphville Road- Designated as Block 497, Lots 3 and 3Q, this site is presently a farm devoted to raising horses. It is flat, open and not in a flood plain. It is bordered on the south by a paved road which is an easement to provide access to a public elementary school. The south side of the easement is bordered by the school playing fields and an eleven acre vacant parcel that is proposed as suitable for higher density residential development.

Although the characteristics of this site would make it satisfactory for residential use as well as light industry, for which it is zoned, its contiguous nature with the office park, its common ownership and the significant benefit that the office park provides for the township makes this site particularly valuable for office/light industry use. It would be important to buffer this use from the uses to the south.

Site #31 would, however, be appropriate for higher density residential as a transition zone between, the office uses and the lower-density residential uses to the south. The easement roads/way should be upgraded as necessary to make it a public road to be dedicated to the township. This road development would logically be the responsibility of the adjacent property developers.

because of the limited width and winding nature of the southern part of South Randolphville Road, no access should be permitted to Site 30 from that side of the site. All access should continue to be gained through the existing office park entrance. The

attached list identifies those sites in Category II and III which are not recommended for residential use.

I realize that the Court Order requested that I propose a density for each site. However, to recommend a specific density for any site, further study would be necessary regarding projected traffic volumes, proposed street improvements, soil conditions, adequacy of available infrastructure, possible impact of adjacent or nearby uses, and potential environmental constraints. If data is readily available, this type of evaluation is easily accomplished.

As the Township of Piscataway has its own Planning Department, I would like to propose that, in the interest of saving time and money for the Township, the Township Planning Department gather all the required data for each site, particularly as it relates to traffic generation and proposed street improvements and constraints due to soil and environmental conditions. I would then be able to make a recommendation on density for each suitable site, based on my own observations and the Township Planning Department's site analysis.

If this is not satisfactory to the parties involved, I would be happy to confer with you regarding an alternative procedure.

Sincerely,

Carla L. Lerman

CLL/bcm *

cc: Philip Paley, Esq.
Bruce Gelber, et al.

Township of Piscataway ~ Vacant Land Inventory *

Category I - • Not suitable for residential development or for residential development at higher than the existing zoning permits. All sites are appropriate to this category except Site #55. This site is owned by Rutgers University and is currently zoned for Education and Research. On the north, it is adjacent to residential development in an area zoned R-15. A portion of this site which fronts on Hoes Lane could be considered appropriate for a use which would compliment, the Hotel Conference Center zone of Site #56. The remaining 80± acres would be appropriate for higher density residential development which might include a mix of higher density garden apartments and lower density townhouses.

Category II* - Not apparently suitable for residential development by virtue of environmental or other constraints. Two of the sites listed in Category II are considered to be worth further consideration for residential development, with certain proportions reserved for buffers. Sites #9 and 13 are adjacent, on the north to a heavy industry site, for which a substantial buffer zone might be required. Site #9 is presently zoned R-10 and is adjacent on the south to Sites 10 and 12', which are recc=ended for

higher density residential development.

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Site #13 is surrounded on three sides by residentially zoned land and would appear to

be of similar character. Both Sites #9 and 13 therefore appear appropriate for residential

use of a higher density if the appropriate buffer area is provided.

The remainder of the sites in Category II are not considered suitable for higher density residential development. They are identified as follows:

Site # 5: adjacent to railroad track, manufacturing site, and site identified as toxic waste site.

15: floodplain

39: part of business district on heavy traffic street

61 and 62: dedicated open space as part of planned residential development

65, 66 and 67: floodplain

Category III - Potentially suitable for residential development

of multi-family housing.

Site # 1: satisfactory

2: approximately 15 acres are in the floodplain, on the northern end of the site. The remainder is satisfactory

3: satisfactory. This site has been proposed for a shopping center. There is an existing neighborhood shopping area on Stelton Road between Old New Brunswick Road and I^tkeview Avenue which can serve the same area as the proposed shopping center, as well as the area south of Old New Brunswick Road which is recommended for higher density development. Strengthening that shopping area through upgrading

of properties and provision of off-street parking would appear to be more beneficial to the neighborhood than creating a new competing shopping center.

4: not satisfactory - toxic waste site

6:- satisfactory

7: satisfactory

8: satisfactory with buffer-needs further study

10s satisfactory

12: satisfactory

14? . not satisfactory. This site presently serves as the buffer which is generally desirable between an interstate (X*2a7) and residential uses. Access is difficult; the north-eastern half is very narrow and crossed diagonally by a pipeline easement, limiting development; if used at all for residential use, a buffer strip of at least 250' with substantial plantings should be required between the development and 1-287.

16 and 17: not satisfactory. Presently part of Rutgers Industrial Park which is well developed with industrial uses. It is crossed by power lines and is best retained for industrial development.

28 and 29: not satisfactory. Partly in floodplain

30: not satisfactory. Preferred for extension of office park use (see text)

V 31s satisfactory

32, 33, 34: satisfactory, although development limited by presence of power lines

35: satisfactory

37: • satisfactory

38: not satisfactory. Surrounded by business district on heavy traffic street, power lines

- 40: partially satisfactory, requires further study^ Frontage on heavy traffic business street, adjacent to residential and light industry. Excluding frontage, might be appropriate for mobile home park. *; \
- 41: not satisfactory, part of existing industrial park
- 43: satisfactory -«
- 44: satisfactory -
- 45: satisfactory
- 46: satisfactory
- 47: satisfactory
- * 48: satisfactory
- 49: satisfactory
- 51: satisfactory
- 52: satisfactory -
- 53: satisfactory
- 54: satisfactory
- 57: satisfactory
- 60 A,B,C: satisfactory. Good infill sites
- 63: satisfactory
- 68: satisfactory
- 75,76: satisfactory. Good infill sites
- 77: satisfactory -
- 78: satisfactory
- 79: not satisfactory. Narrow strip on heavy traffic street

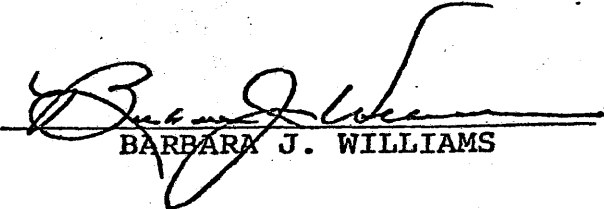
and conditions of the approval and may preclude rezoning of the tract for residential use as part of a remedy in this case.

12. Because the Township of Piscataway has proceeded to receive and approve applications, despite the constraints imposed by the lack of vacant land elsewhere in the Township as identified by the Court-appointed expert, Carla Lerman, P.P., that would be appropriate to meet the Township fair share obligation, plaintiffs continue to be placed in a position of suffering irreparable injury.

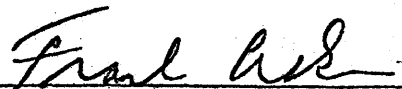
13. Any action regarding the vacant land in Piscataway reduces the amount of land available for satisfaction of Piscataway's fair share.

14. The existing situation as to the Lackland Brothers, Inc. and New Castle Builders, Inc. sites is further evidence of the irreparable injury that plaintiffs will suffer if denied injunctive relief.

15. Because it is clear that there is insufficient vacant developable land in Piscataway to meet Piscataway's fair share obligation, it is essential that the Township of Piscataway Council, Planning Board and Zoning Board of Adjustment take no further action that might limit the availability of such land for these purposes.


BARBARA J. WILLIAMS

SWORN TO and SUBSCRIBED
before me this *7 day
of November, 1984.



Attorney at Law, State of New Jersey